IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

CRP.No. 854 of 2004()

OPELE.254/1996 of II ADDL.DISTRICT COURT,ERNAKULAM

.....

REVN. PETITIONER: PETITIONER

SMT.UMA SAHNMATHURAN,
W/O.SHANMATHURAN, PUTHENPURACKAL,
KUMBALANGHI, KOCHI-7.

BY ADV. SRI.O.K.MURALEEDHARAN

RESPONDENT: COUNTER PETITIONER

KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY,
VYDYUTHI BHAVANAM, THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC, KSEB

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

HARUN-UL-RASHID, J.

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C.R.P.NO.854 OF 2004

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DATED THIS THE 30TH DAY OF NOVEMBER, 2007

O R D E R

This revision petition arise out of OP(Ele.) No.254/96 on the file of the 2nd Additional District Court, Ernakulam is filed by the revision petitioner/petitioner in the O.P, challenging the order passed in the case. The revision petitioner, relying on the decision reported in **K.S.E.B v. Livisha 2007 (3) KLT 1 (SC),** request this court to redetermine the compensation in accordance with the principles laid down in the said decision. Honourable Supreme Court in the said decision in para 11 and 12 stated the principles as follows:

> "11. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case.
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> 12. We may, incidentally, refer to a recent decision of this Court in *Land Acquisition Officer, A.P. v. Kamandana Ramakrishna Rao & Anr.* reported in 2007 AIR SCW 1145 wherein claim on yield basis has been held to be relevant for determining the amount of compensation payable under the Land Acquisition Act, same principle has been reiterated in *Kapur Singh Mistry v. Financial Commission & Revenue Secretary to Govt. of Punjab & Ors. 1995 Supp.(2) SCC 635, State of Haryana v. Gurucharan Singh & Anr. (1995 Supp.(2) SCC 637) para 4, and Airports Authority of India v. Satyagopal Roy & Ors.(2002) 3 SCC 527*. In *Airport Authority* (supra), it was held:-
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> > "14. Hence, in our view, there was no reason for the High Court not to follow the decision rendered by this Court in Gurucharan Singh's case and determine the compensation payable to the respondents on the basis of the yield from the trees by applying 8 years' multiplier. In this view of the matter, in our view, the High Court committed error apparent in awarding compensation adopting the multiplier of 18." "

2. The counsel for petitioner submitted that the matter requires reconsideration on the basis of the Supreme Court decision. Hence, requested to afford an opportunity to adduce additional evidence to substantiate their contentions in the light of the said Supreme Court decision.

3. In the light of the said decision of the Supreme Court, the matter has to be reconsidered by the Court below and an opportunity has to be given to both sides to adduce evidence to establish proper compensation payable.

4. Therefore the orders under challenge are set aside and the matter is remitted to the court below for fresh consideration after affording an opportunity to both sides to adduce evidence in support of their respective contentions.

The Civil Revision Petition is disposed of accordingly.

HARUN-UL-RASHID, JUDGE.

dsn